IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 19647 of 1994

Between:

Ch. Krishna Kumari, W/o. .Shyam Prasad, aged abpit 37 years,
occ: Junior Lecturer in Physics, A.P.Residencial Junior College, Nagarjuna Sagar, Guntur Dist.

..... PETITIONER

AND

1 State of A.P., rep.by it's Secretary to Govt., Educational Department, Secretariat, Hyderabad.
2 Secretary of A.P., Residential Educational Institution Society, Kandara complex, Abids, Hyderabad.
3 K.Jayararm, occ: Lecturer in Physics, A.P.Residential Degree College, Nagarjunasagar, Guntur Dist.
4 M.Rama Chandra Sastry, occ: Jr. Lecturer in Chemistry, A.P. Residential Degree College, Nagarjunasagar, Guntur Dist.
5 M.Rama Linga Reddy, occ: Jr. Lecturer in Maths, A.P.Residential Degree College, Nagarjuna sagar, Guntur Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more in the nature of writ of Mandamus directing the respondents to revise the seniority list of Jr. Lecturer basing on the seniority list of Post Graduate Teachers issued vide proceedings dt.2.11.1993 and accordingly direct the respondents to promote the petitioner as Principal of Jr. College by taking in the consider the said seniority list.

For the Petitioner: MR.J.R.MANOHAR RAO, Advocate

For the Respondent No.1 and 2: GP FOR HIGHER EDUCATION

For the Respondents 3 to 5: Mr. M. Vijaya Bhaskar Moola, Advocate

The Court made the following :

O R D E R

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This Writ Petition is filed by the petitioner seeking a direction to the respondents to revise the seniority list of Junior Lecturers basing on the seniority list of Post Graduate Teachers, dated 2.11.1983, and for a consequential direction to the respondents to promote the petitioner as Principal of Junior College by taking into consideration the said seniority list.

As per the contents made in the affidavit filed in support of the writ petition, the petitioner and respondents 3, 4 and 5 were appointed as Trained Graduate Teachers, and as the petitioner joined in service as a trained graduate teacher on 25.07.1980 and respondents 3 to 5 on 2.8.1980, 1.08.1980 and 2.12.1982 respectively, the petitioner is kept over and above the respondents 3 to 5 in the seniority list prepared by the 2nd respondent. Subsequently, the petitioner as well as the respondents 3 and 4 were promoted as Post Graduate Teachers vide proceedings dated 22.11.1984. As the petitioner joined as Post Graduate Teacher on 17.12.1984, and respondents 3 to 5 joined some time prior to that date i.e. 17.12.1984, a seniority list was prepared putting respondents 3 to 5 as seniors to the petitioner. But, however, the same was rectified basing on a representation given by the petitioner herein and accordingly the proceedings were issued on 2.11.1993 showing the petitioner over and above the respondents 3 to 5 as Post Graduate Teacher. Be that as it may, subsequently the petitioner as well as respondents 3 to 5 were promoted as Junior Lecturers by transfer and to that effect the 2nd respondent-institution issued proceedings dated 18.7.1985. The respondents 3 and 4 joined as Junior Lecturers on 24.07.1985 and 29.7.1985 respectively, whereas the petitioner has assumed office as Junior Lecturer only on 7.8.1985 i.e. subsequent to the respondents 3 and 4 joining as Junior Lecturers. Subsequently, the 2nd respondent by its proceedings Rc.No.3485/C1-1/90-91, dated 18.04.1991 regularised the services of all Junior Lecturers, according to which, the petitioner is shown underneath the respondents 3 to 5. This, the petitioner is questioning stating that the said regularization, wherein the respondents 3 to 5 are shown over and above her, is arbitrary and illegal.

Heard both the learned counsel.

From the narration of events, and after hearing both the learned counsel appearing on either side, this Court is of the view that the proceedings, dated 18.4.1991, by which respondents 3 to 5 are shown over and above the petitioner appears to be illegal. When we take the initial date of appointment of the petitioner as well as the respondents, admittedly, the petitioner is senior to respondents 3 to 5. Subsequently also, when the petitioner and respondents 3 to 5 were promoted to the post of Post Graduate Teachers, though, the petitioner joined subsequent to the joining of respondents 3 to 5, the 2nd respondent has shown the petitioner as senior to respondents 3 to 5 in lieu of her initial appointment as a trained graduate teacher. In the proceedings, dated 18.07.1995, by which the petitioner as well as respondents 3 and 4 were appointed to the post of Junior Lecturers, it is clearly mentioned that the said appointments are on promotion. When once the said appointment of the petitioner as well as the 3rd and 4th respondents is treated as a promotion, it is not known as to how the respondents 1 and 2 treated respondents 3 and 4 as seniors to the petitioner. Simply because, the respondents 3 and 4 joined as Junior Lecturers on 24.07.1985 and 29.07.1985 and the petitioner joined duty as a Junior Lecturer on 7.08.1985, subsequent to the joining of 3rd and 4th respondents, they cannot treat the petitioner as a junior to the 3rd and 4th respondents. As already observed, as the post of Post Graduate Teacher and junior lecturer is by way of transfer from the post of trained graduate teacher, their initial date of appointment alone shall be taken into consideration, and when once the initial date of appointment is taken into consideration, this Court has no hesitation to come to the conclusion that the petitioner is senior to respondents 3, 4 and 5 in all aspects.

Accordingly, this writ petition is allowed and respondents 1 and 2 are directed to prepare a revised seniority list, placing the petitioner over and above the respondents 3 to 5, and consequently, if she is entitled for further promotion basing on the revised seniority list, the respondents 1 and 2 may consider her case for such promotions. No costs.

19th August, 2004

vp

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the Nineteenth day of August, two thousand and four.

ASST. REGISTRAR

//TRUE COPY//

SECTION OFFICER

TO

1. The Secretary, Education Department, Govt. of A.P. Secretariat, Hyderabad,
2. The Secretary, A.P. Residential Educational Institution Society, Kandara Complex, Abids, Hyderabad,
3. 2 C.Cs to Govt. Pleader for Higher Education, High Court Buildings, Hyderabad (OUT)
4. 2 C.D. copies.